

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Developmental Disabilities

411

Agency and Division		Administrative Rules Chapter Number
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Rules Coordinator	Address	Telephone
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to become effective [July 1, 2013] through [December 28, 2013].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Children's Intensive In-Home Services for Children with Intellectual or Developmental Disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

411-300-0110, 411-300-0120, 411-300-0130, 411-300-0140, 411-300-0150

SUSPEND:

Stat. Auth.: ORS 409.050

Other Auth.:

Stats. Implemented: ORS 427.005, 427.007, and 430.215

RULE SUMMARY

The Department of Human Services (Department) is immediately amending the children's intensive in-home services rules for children with intellectual or developmental disabilities in OAR chapter 411, division 300 to --

- Reflect new definitions applicable to Community First Choice State Plan services;
- Specify the eligibility requirements to reflect changes made as a result of the Community First Choice State Plan;
- Describe and coincide with the services available in the Community First Choice State Plan and Home and Community-Based Waiver amendments;
- Require a functional needs assessment as part of a child's service planning process; and
- Clarify the responsibilities of a services coordinator when developing a child's Plan of Care.

Signed Patrice Botsford, Director, Developmental Disabilities

July 1, 2013

Signature

Date

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services, Developmental Disabilities

411

Agency and Division

Administrative Rules Chapter Number

In the Matter of: **The temporary amendment of 411-300-0110, 411-300-0120, 411-300-0130, 411-300-0140, and 411-300-0150 relating to children's intensive in-home services for children with intellectual or developmental disabilities**

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Children's Intensive In-Home Services for Children with Intellectual or Developmental Disabilities

Statutory Authority: **ORS 409.050**

Other Authority:

Stats. Implemented: **ORS 427.005, 427.007, and 430.215**

Need for the Temporary Rule(s):

The Department needs to immediately amend the rules in OAR chapter 411, division 300 to --

- **Provide guidance to individuals and their families, providers, stakeholders, and the public around eligibility requirements for waived and state plan services, individual rights, and responsibilities of the Department and services coordinators to reflect changes made as a result of the Community First Choice State Plan. If there is a lack of understanding, individual and family health and safety needs may not be met; and**
- **Demonstrate compliance with the Code of Federal Regulations required for waived and state plan services. Lack of compliance with the Code of Federal Regulations would result in the loss of significant federal funding to support developmental disability services. Oregon receives a significant federal Medicaid match for waived and state plan services and depends on this funding to support staffing, services, and systems needed to deliver developmental disability services to individuals and their families.**

The temporary rules -

- Reflect new definitions applicable to Community First Choice State Plan services;
- Specify the eligibility requirements to reflect changes made as a result of the Community First Choice State Plan;
- Describe and coincide with the services available in the Community First Choice State Plan and Home and Community-Based Waiver amendments;
- Require a functional needs assessment as part of a child's service planning process; and
- Clarify the responsibilities of a services coordinator when developing a child's Plan of Care.

Documents Relied Upon, and where they are available:

1915(c) Home and Community-Based Services Waiver and 1915(k) State Plan.

Available upon request by emailing the Administrative Rule Coordinator

(christina.hartman@state.or.us) or calling 503-945-6398

Justification of Temporary Rule(s):

Failure to act promptly and immediately amend the rules in OAR chapter 411, division 300 will result in serious prejudice to children who are or will be eligible for access to waived and state plan services and their families, service providers, stakeholders, the Department, and the public.

Failure to immediately amend the rules in OAR chapter 411, division 300 will prevent the Department from clarifying eligibility requirements for waived and state plan services, individual rights, and responsibilities of the Department and services coordinators to reflect changes made as a result of the Community First Choice State Plan. If there is a lack of understanding, individual and family health and safety needs may not be met.

Failure to immediately amend the rules in OAR chapter 411, division 300 will prevent the Department from complying with the Code of Federal Regulations required for waived and state plan services. Lack of compliance with the Code of Federal Regulations required for waived and state plan services will result in the loss of significant federal funding to support developmental disability services. Oregon receives a significant federal Medicaid match for waived and state plan services and depends on this funding to support staffing, services, and systems needed to deliver developmental disability services to individuals and their families.

Failure to take immediate action may also result in legal action by stakeholders and the public who are aware and invested in making changes including Disability Rights Oregon, Developmental Disability Coalition, the Developmental Disability Council, Service Employees International Union (SEIU), service providers, individuals, and individuals' family members. Community First Choice State Plan not only provides significant financial opportunities for Oregon but most importantly allows for expanded service opportunities for children and adults with intellectual or developmental disabilities.

The rules in OAR chapter 411, division 300 need to be amended promptly to implement waived and state plan services and comply with the Code of Federal Regulations.

Signed Patrice Botsford, Director, Developmental Disabilities

July 1, 2013

Signature

Date

DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 300

CHILDREN'S INTENSIVE IN-HOME SERVICES,
BEHAVIOR PROGRAM, FOR CHILDREN WITH INTELLECTUAL
OR DEVELOPMENTAL DISABILITIES

411-300-0110 Definitions

(Temporary Effective 7/1/2013 - 12/28/2013)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 300:

- (1) "Abuse" means abuse of a child as defined in ORS 419B.005.
- (2) "Activities of Daily Living (ADL)" mean ~~activities usually performed in the course of a normal day in a child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior (play and social development)~~those personal, functional activities required by a child for continued well-being that are essential for health and safety.
- (3) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210 (Criminal Records and Abuse Check for Providers).
- (4) "Behavior Consultant" means a contractor with specialized skills who develops a Behavior Support Plan.
- (5) "Behavior Support Plan (BSP)" means a written strategy based on person-centered planning and a functional assessment that outlines specific instructions for a provider to follow, to cause a child's challenging behaviors to become unnecessary, and to change the provider's own behavior, adjust environment, and teach new skills.

(56) "Behavior Criteria (Form DHS-0521)" means the assessment tool used by the ~~Division~~ Department to evaluate the intensity of ~~the a child's~~ challenges and ~~care-service~~ needs ~~presented by children applying for, or eligible for, children's intensive in-home services,~~ and to determine the service budget for ~~eligible children~~ the child.

(67) "Billing Provider" means an organization that enrolls and contracts with the ~~Division~~ Department to provide services through ~~its an~~ employees and bills the ~~Division~~ Department for the provider's services.

(8) "Case Management" means an organized service to assist individuals to select, obtain, and utilize resources and services.

(9) "CDDP" means "Community Developmental Disability Program" as defined in this rule.

(710) "Child" means an individual under the age of 18, eligible for developmental disability services, and applying for or accepted for children's intensive in-home services under the ICF/~~MR-IDD~~ Behavioral Waiver.

(11) "Chore Services" mean the services described in OAR 411-300-0150 needed to maintain a clean, sanitary, and safe environment in a child's home. Chore services include heavy household chores such as washing floors, windows, and walls, tacking down loose rugs and tiles, and moving heavy items of furniture for safe access and egress. Chore services may include yard hazard abatement to ensure the outside of the home is safe for the child to traverse and enter and exit the home.

(812) "CIIS" means children's intensive in-home services.

(13) "Community Developmental Disability Program (CDDP)" means the entity that is responsible for the planning and delivery of services for children with intellectual or developmental disabilities according to OAR chapter 411, division 320. A CDDP operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.

(14) "Community First Choice State Plan" means Oregon's state plan amendment authorized under section 1915(k) of the Social Security Act.

(15) "Community Nursing Services" mean the services described in OAR 411-300-0150 that include nurse delegation and care coordination for a child living in his or her own home. Community nursing services do not include direct nursing care and are not covered by other Medicaid spending authorities

(916) "Cost Effective" means that in the opinion of ~~the a~~ services coordinator, a specific service or item of equipment meets ~~the a~~ child's needs and costs less than, or is comparable to, other service or equipment options considered.

(4017) "Daily Activity Logs" means ~~s~~ the records ~~s~~ of services provided to ~~the a~~ child. The content and form of ~~a~~ daily activity logs ~~s~~ is agreed upon by both the child's parent and the ~~child's~~ services coordinator and documented in the ~~child's~~ Plan of Care.

(4118) "Department" means the Department of Human Services (DHS). The term "Department" is synonymous with "Seniors and People with Disabilities Division (Division)".

(4219) "Developmental Disability (DD)" means a ~~disability-neurological condition~~ that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional ~~as described in OAR 411-320-0080~~. ~~Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the conditions must be manifested before the age of 18;(b) Originates in and directly affects the brain and has continued, or must be expected to continue, indefinitely;(c) Constitutes a significant impairment in adaptive behavior; and(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.~~

(320) "Assistant Director" means the ~~assistant d~~Director of the ~~Division, Department's Office of Developmental Disability Services~~ or that ~~person's~~the Director's designee.

~~(13) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).~~

(21) "Environmental Accessibility Adaptations" mean the physical adaptations as described in OAR 411-300-0150 that are necessary to ensure the health, welfare, and safety of a child in the home, or that enable the child to function with greater independence in the home.

~~(1422) "Exit" means termination of a child from or discontinuance of children's intensive in-home services.~~

~~(1523) "Family Home" means a child's primary residence that is not under contract with the Department to provide services as a licensed, endorsed, or certified foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.~~

(24) "Family Training" means training and counseling services for the family of a child that increase the family's capacity to care for, support, and maintain the child in the home as described in OAR 411-300-0150.

(a) Family training includes:

(A) Instruction about treatment regimens and use of equipment specified in the child's Plan of Care;

(B) Information, education, and training about the child's intellectual or developmental disability, medical, or behavioral conditions; and

(C) Counseling for the family to relieve the stress associated with caring for a child with an intellectual or developmental disability.

(b) To determine who may receive family training, family means a unit of two or more persons that include at least one child with an intellectual or developmental disability where the primary caregiver is:

(A) Related to the child by blood, marriage, or legal adoption; or

(B) In a domestic relationship where partners share:

(i) A permanent residence;

(ii) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses); and

(iii) Joint responsibility for supporting the child and the child is related to one of the partners by blood, marriage, or legal adoption.

(4625) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(26) "Functional Needs Assessment (FNAT)" means an assessment that documents the level of need, accommodates a child's participation in service planning, and includes --

(a) Completing a comprehensive and holistic assessment;

(b) Surveying physical, mental, and social functioning; and

(c) Identifying risk factors, choices and preferences, and service needs.

(27) "Home and Community-Based Waivered Services" mean the services approved by the Centers for Medicare and Medicaid Services in accordance with Section 1915(c) and 1115 of the Social Security Act.

(4728) "ICF/MR/ICF/IDD Behavioral Waiver" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Medicaid funds to be spent on children living in the family home who otherwise would have to be served in an intermediate care facility ~~for the mentally retarded~~ if the waiver program was not available.

(1829) "In-Home Daily Care (IHDC)" means Medicaid state plan funded essential supportive daily care as described in OAR 411-300-0150 delivered by a qualified provider that enables a child to remain in, or return to, the family home.

(30) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required to continue independent living.

(31) "Intellectual Disability" has the meaning set forth in OAR 411-320-0020 and described in OAR 411-320-0080.

(32) "Level of Care" means an assessment completed by a services coordinator has determined a child meets institutional level of care. A child meets institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities if --

(a) The child has a condition of an intellectual disability or a developmental disability as defined in OAR 411-320-0020 and meets the eligibility criteria for developmental disability services as described in OAR 411-320-0080; and

(b) The child has a significant impairment in one or more areas of adaptive functioning. Areas of adaptive functioning include self direction, self care, home living, community use, social, communication, mobility, or health and safety.

(1933) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who comes in contact with and has reasonable cause to believe a child with or without an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 ~~shall~~ affects the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 ~~shall is~~ not ~~be~~ required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(34) "Natural Supports" or "Natural Support System" means the resources available from relatives, friends, significant others, neighbors, roommates, and the community. Services provided by natural supports are resources that are not paid for by the Department.

(35) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse or licensed practical nurse pursuant to ORS chapter 678.

(36) "Nursing Care Plan" means the plan of care developed by a nurse that describes the medical, nursing, psychosocial, and other needs of a child and how those needs are met. The Nursing Care Plan includes the tasks that are taught or delegated to a parent or service provider.

(37) "OSIP-M" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIP-M is Oregon Medicaid insurance coverage for those who meet the eligibility criteria as described in OAR chapter 461.

(2038) "Parent" means biological parent, adoptive parent, stepparent, or legal guardian.

(39) "Person-Centered Planning" means:

(a) A process, either formal or informal, for gathering and organizing information that helps:

(A) Determine and describe choices about personal goals, activities, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(b) The methods for gathering information vary, but all are consistent with a child's needs and preferences.

(40) "Personal Care Services" means assistance with activities of daily living, instrumental activities of daily living, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding.

(2141) "Plan of Care" means the written details of the supports, activities, and resources required for a child to achieve personal outcomes. Individual support needs are identified through a functional needs assessment. The manner in which services are delivered, service providers, and the frequency of services are reflected in a Plan of Care. The Plan of Care is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The Plan of Care includes a Nursing Care Plan when one exists. The Plan of Care reflects whether services are provided through a waiver, state plan, or through a child's natural supports. ~~a written document developed and renewed annually for each eligible child by the services coordinator and the parent that describes the individual needs of the child, the needs and resources of the family that impact the child, and how those individual needs shall be met with family and public resources. The Plan of Care includes the Nursing Care Plan when one exists.~~

(2242) "Positive Behavioral Theory and Practice" means a proactive approach to individual behavior and behavior interventions that:

- (a) Emphasizes the development of functional alternative behavior and positive behavior intervention;
- (b) Uses the least intervention possible;
- (c) Ensures that abuse or demeaning interventions are never used; and
- (d) Evaluates the effectiveness of behavior interventions based on objective data.

(2343) "Primary Caregiver" means ~~the a~~ child's parent, guardian, relative, or other non-paid parental figure that provides ~~the direct care of the child~~ at the times that a paid provider is not available.

(44) "Protective Physical Intervention (PPI)" means any manual physical holding of, or contact with, a child that restricts the child's freedom of movement. The term "protective physical intervention" is synonymous with "physical restraint".

(2445) "Provider or Performing Provider" means ~~the a~~ person who is qualified as described in OAR 411-300-0170 to receive payment from the Division Department for in-home daily care ~~that meets the requirements of OAR 411-300-0170~~. Providers work directly with children. Providers may be employees of billing providers, employees of the a child's parent, or independent contractors.

(2546) "Respite" ~~means short-term care and supervision provided on a periodic or intermittent basis because of the temporary absence of, or need for relief of, the primary caregiver.~~ means intermittent services as described in OAR 411-300-0150 provided on a periodic basis, but not more than 14 consecutive days, for the relief of, or due to the temporary absence of a child's primary caregiver.

(2647) "Service Budget" means the annual dollar amount allotted for the care of ~~the a~~ child based on the behavior criteria level of care determination. The service budget consists of in-home daily care and waived services. The monthly service budget is 1/12th of the annual amount if the Plan of Care is developed for less than a full year. The service budget is flexible and may be distributed as necessary to meet the needs of the a child as outlined in the child's Plan of Care.

(2748) "Services Coordinator" means an employee of the Division Department, who ensures a child's eligibility for children's intensive in-home services and provides assessment, case planning management, service implementation, and evaluation of the effectiveness of the services.

(2849) "Social Benefit" means a service or financial assistance provided to a family solely intended to assist a child to function in society on a level comparable to that of a person who does not have an intellectual or developmental disability. Social benefits are pre-authorized by a child's services coordinator, and provided according to, the description and financial limits written in an eligible a child's Plan of Care.

(a) Social benefits may not:

(aA) Duplicate benefits and services otherwise available to persons regardless of intellectual or developmental disability;

(bB) Replace normal parental responsibilities for the child's services, education, recreation, and general supervision;

(cC) Provide financial assistance with food, clothing, shelter, and laundry needs common to persons-people with or without disabilities; or

(dD) Replace other governmental or community services available to the child or the child's family; ~~or.~~

(eb) Financial assistance provided as a social benefit may not ~~Exceed~~ the actual cost of the ~~supports that must be~~ provided for the child to be supported in the family home.

(50) "Specialized Diet" means specially prepared food or particular types of food as described in OAR 411-300-0150, ordered by a physician and periodically monitored by a dietician, specific to a child's medical condition or diagnosis that are needed to sustain a child in the family home. Specialized diets are supplements and are not intended to meet a child's complete daily nutritional requirements.

(51) "Specialized Equipment and Supplies" mean devices, aids, controls, supplies, or appliances as described in OAR 411-300-0150 that meet applicable standards of manufacture, design, and installation that enable children to increase their abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which they live. Specialized equipment and supplies do not include items not of direct benefit to a child.

(2952) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

(3053) "Supplant" means take the place of.

(~~3154~~) "Support" means the assistance ~~eligible children that a child~~ and ~~their families~~ the child's parent require, solely because of the effects of an intellectual or developmental disability ~~on the child~~, to maintain or increase the child's age-appropriate independence, achieve a child's age-appropriate community presence and participation, and to maintain the child in the family home. Support is ~~flexible and~~ subject to change with time and circumstances.

(~~3255~~) "These Rules" mean the rules in OAR chapter 411, division 300.

(56) "Transportation" means services as described in OAR 411-300-0150 that allow a child to gain access to community services, activities, and resources that are not medical in nature.

(~~3357~~) "Waivered Services" mean a menu of disability related services and supplies, exclusive of in-home daily care and the Oregon Health Plan, that are specifically identified by the ICF/~~MR-IDD~~ Behavioral Waiver.

(~~3458~~) "Volunteer" means any person providing services without pay to ~~a child receiving children's intensive in-home services~~ support the services provided to a child.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, 427.007, and 430.215

411-300-0120 Eligibility

(Temporary Effective 7/1/2013 - 12/28/2013)

(1) ELIGIBILITY. In order to be eligible for CIIS, ~~the a~~ child must:

(a) Be under the age of 18;

(~~eb~~) Be an Oregon resident who meets the citizenship and alien status requirements of OAR 461-120-0110;

(c) Be eligible for OSIP-M;

(~~bd~~) Be determined eligible for developmental disability services by the CDDP of the child's county of residence as described in ~~accordance with~~ OAR 411-320-0080;

(e) After completion of an assessment, meet the level of care defined in OAR 411-300-0110;

(df) Be accepted by ~~SPD~~the Department by scoring greater than 200 on the behavior criteria within two months of starting services. To remain eligible, a child must maintain a score above 150 as determined during an annual re-eligibility assessment;

(eg) Be financially and otherwise eligible to receive Medicaid services;

(fh) Reside in the family home; and

(gi) Be capable of being safely served in the family home. This includes but is not limited to the parent demonstrating the willingness, skills, and ability to provide the direct care as outlined in the Plan of Care in a cost effective manner as determined by the services coordinator within the limitations of OAR 411-300-0150 and participate in planning, monitoring, and evaluation of the CIIS provided.

(2) INELIGIBILITY. A child is not eligible for CIIS if the child:

(a) Resides in a hospital, school, sub-acute facility, nursing facility, intermediate care facility ~~for the mentally retarded~~, residential facility, foster home, or other institution~~;~~

(b) Does not require waived services, Community First Choice State Plan services, or has sufficient family, government, or community resources available to provide for his or her care~~;~~ or

(c) Is not safely served in the family home as described in section (1)(gi) of this rule.

(3) TRANSITION. A child whose score on the behavior criteria remains at 150 or less ~~shall be~~is transitioned out of CIIS within 90 days and at the end of the 90 day transition period ~~shall~~must exit.

(a) When possible and agreed upon by the child's parent and services coordinator, CIIS ~~shall beare~~ incrementally reduced during the 90 day transition period.

(b) A minimum of 30 days prior to exit, the services coordinator must coordinate and attend a transition planning meeting that includes ~~the services coordinator~~, a representative of the community developmental disability program, the parent, and any other individual person at the parent's request.

(4) EXIT. A child ~~shall~~ must exit from CIIS if the child no longer meets the eligibility criteria in section (1) of this rule or if the child has been transitioned out ~~per as described in~~ section (3) of this rule, except when the child's parent appeals notice of intent to terminate services and requests continuing services as described in OAR 411-300-0210.

(5) WAIT LIST. A child eligible for CIIS may be placed on a wait list if the maximum numbers of children on the ICF/~~MR~~IDD Behavioral Waiver are already being served.

(a) The date the initial application for service is completed ~~shall~~ determines the order on the wait list. A child who was once served by CIIS, exited CIIS, reapplies, and currently meets all other criteria for eligibility, ~~shall beis~~ put on the wait list as of the date the child's original application for services was complete.

(b) The date the application is complete is the date that ~~SPD~~the Department has the required demographic data on the child and a statement of developmental disability eligibility.

(c) Children on the wait list ~~shall beare~~ served on a first come, first served basis as space on the ICF/~~MR~~IDD Behavioral Waiver allows.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, ORS 427.007, and ORS 430.215

411-300-0130 Plan of Care

(Temporary Effective 7/1/2013 - 12/28/2013)

(1) To develop the Plan of Care, the services coordinator must complete an FNAT using a person-centered planning approach and assess the individual service needs of the child. The assessment must take place in person and the services coordinator must interview the child's parent, other caregivers, or others requested by the child's parent when appropriate, interested individuals. The assessment must:

- (a) Take place in the child's family home with both the child and the child's primary caregiver present;
- (b) Identify the services for which the child is currently eligible;
- (c) Identify the services currently being provided; and
- (d) Identify all available family, private health insurance, and government or community resources that meet any, some, or all of the child's needs.

(2) The services coordinator must prepare, with the input of the parent and any other individual person at the parent's request, a written Plan of Care that identifies:

- (a) The service needs of the child and the child's family;
- (b) The most cost effective services for safely and appropriately meeting the child's service needs; and
- (c) The methods, resources, and strategies that address some or all of those the child's service needs;

(3) The Plan of Care must include:

- (a) A description of the supports required, including the reason the support is necessary. For an initial or annual Plan of Care that is authorized after July 1, 2013, the description must be consistent with the FNAT;

(b) A list of personal, community, and public resources that are available to the child and how the resources may be applied to provide the required supports. Sources of support may include waived or state plan services, state general funds, or natural supports;

(ac) The maximum hours of authorized provider services;

(bd) The annual and monthly service budget level;

(de) The number of hours of in-home daily care or behavior consultation authorized for the child; ~~and~~

(ef) Additional services authorized by ~~SPD~~ the Department for the child.;

(eg) The date of the next ~~planned~~ Plan of Care review that, at a minimum, must be completed within ~~365 days~~ 12 months of the last Plan of Care; and

(eh) The child's Nursing Care Plan, when one exists.

(4) The Plan of Care must be reviewed with the parent prior to implementation, signed by both the parent and the services coordinator, and a copy must be provided to the parent.

(5) The Plan of Care ~~shall be~~ is translated, as necessary, upon request.

(6) Significant changes in the needs of the child must be reflected in the Plan of Care, as they occur, and a copy must be provided to the parent. Changes in service needs funded by ~~SPD~~ the Department must be documented in a Plan of Care amendment signed by the parent and the services coordinator.

(7) The Plan of Care must be renewed at least every ~~365 days~~ 12 months. Each new plan year begins on the anniversary date of the initial or previous plan date.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, ORS 427.007, and ORS 430.215

411-300-0140 Rights of the Child

(Temporary Effective 7/1/2013 - 12/28/2013)

(1) When interventions in the behavior of ~~the a~~ child are necessary, ~~they~~ the interventions must be done in accordance with positive behavioral theory and practice as defined in OAR 411-300-0110.

(2) The least intrusive intervention to keep the child and others safe must be used.

(3) Abusive or demeaning interventions must never be used.

(4) When ~~physical restraints~~ protective physical interventions are required, ~~they~~ the protective physical intervention must only be used as a last resort and providers must be appropriately trained as per the child's Behavior Support Plan.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, ORS 427.007, and ORS 430.215

411-300-0150 Scope and Limitations of Children's Intensive In-Home Services

(Temporary Effective 7/1/2013 - 12/28/2013)

(1) CIIS are intended to support, not supplant, the natural supports supplied by ~~the a~~ primary caregiver. CIIS are not available to replace services provided by ~~the a~~ primary caregiver or to replace other governmental or community services. Regardless of other services available, ~~the a~~ primary caregiver must provide a minimum of 40 hours per week of in-home daily care for a child.

(2) CIIS ~~shall are~~ only ~~be~~ authorized to enable ~~the a~~ primary caregiver to meet the needs of caring for ~~the a~~ child on the ICF/~~MR-IDD~~ Behavioral Waiver and Community First Choice State Plan. All services funded by ~~SPD the Department~~ must be based on the actual and customary costs related to best practice standards of care for children with similar disabilities.

(3) For an initial or annual Plan of Care that is authorized on or after July 1, 2013, CIIS may include a combination of the following waived and other Medicaid services based upon the needs of a child as determined by the services coordinator and as consistent with the child's Plan of Care:

(a) Community First Choice State Plan services:

(A) Specialized consultation including behavior consultation as described in section (4) of this rule;

(B) Community nursing services as described in section (5) of this rule;

(C) Environmental accessibility adaptations as described in section (6) of this rule;

(D) In-home daily care as described in section (7) of this rule;

(E) Respite as described in section (8) of this rule;

(F) Specialized equipment and supplies as described in section (9) of this rule;

(G) Chore services as described in section (10) of this rule; and

(H) Transportation as described in section (11) of this rule.

(b) Waivered services:

(A) Family training as described in section (12) of this rule;

(B) Specialized diets as described in section (13) of this rule;
and

(C) Translation as described in section (14) of this rule.

(4) SPECIALIZED CONSULTATION – BEHAVIOR CONSULTATION. Behavior consultation is only authorized to support a primary caregiver in their caregiving role. Behavior consultation is only authorized, as needed,

to respond to specific problems identified by a primary caregiver or services coordinator. Behavior consultants must:

(a) Work with the primary caregiver to identify:

(A) Areas of a child's family home life that are of most concern for the parent and child;

(B) The formal or informal responses the family or provider has used in those areas; and

(C) The unique characteristics of the family that may influence the responses that may work with the child.

(b) Assess the child. The assessment must include:

(A) Specific identification of the behaviors or areas of concern;

(B) Identification of the settings or events likely to be associated with, or to trigger, the behavior;

(C) Identification of early warning signs of the behavior;

(D) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:

(i) An effort to communicate;

(ii) The result of a medical condition;

(iii) The result of an environmental cause; or

(iv) The symptom of an emotional or psychiatric disorder.

(E) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern; and

(F) An assessment of current communication strategies.

(c) Develop a variety of positive strategies that assist the primary caregiver and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a primary caregiver and provider to the early warning signs.

(A) Interventions must be done in accordance with positive behavioral theory and practice as defined in OAR 411-300-0110.

(B) The least intrusive intervention possible must be used.

(C) Abusive or demeaning interventions must never be used.

(D) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.

(d) Develop emergency and crisis procedures to be used to keep the child, primary caregiver, and provider safe. Protective physical intervention must only be utilized in accordance with OAR 411-300-0140.

(e) Develop a written Behavior Support Plan that includes the following:

(A) Use of clear, concrete language that is understandable to the primary caregiver and provider; and

(B) Describes the assessment, strategies, and procedures to be used.

(f) Teach the provider and primary caregiver the strategies and procedures to be used.

(g) Monitor and revise the Behavior Support Plan as needed.

(5) COMMUNITY NURSING SERVICES.

(a) Evaluation and identification of supports that minimize health risks, while promoting the child's autonomy and self-management of healthcare;

(b) Medication reviews;

(c) Collateral contact with the services coordinator regarding the child's community health status to assist in monitoring safety and well-being and to address needed changes to the person-centered Plan of Care; and

(d) Delegation of nursing tasks to a provider and primary caregiver so that caregivers may safely perform health related tasks.

(6) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS. Environmental accessibility adaptations are physical adaptations to a family home that are necessary to ensure the health, welfare, and safety of the child in the family home due to the child's intellectual or developmental disability or that are necessary to enable the child to function with greater independence around the family home and in family activities.

(a) Environmental accessibility adaptations include but are not limited to:

(A) An environmental modification consultation to determine the appropriate type of adaptation to ensure the health, welfare, and safety of the child;

(B) Installation of shatter-proof windows;

(C) Hardening of walls or doors;

(D) Specialized, hardened, waterproof, or padded flooring;

(E) An alarm system for doors or windows;

(F) Protective covering for smoke detectors, light fixtures, and appliances;

(G) Sound and visual monitoring systems;

(H) Fencing;

(I) Installation of ramps, grab-bars, and electric door openers;

(J) Adaptation of kitchen cabinets and sinks;

(K) Widening of doorways;

(L) Handrails;

(M) Modification of bathroom facilities;

(N) Individual room air conditioners for a child whose temperature sensitivity issues create behaviors or medical conditions that put the child or others at risk;

(O) Installation of non-skid surfaces;

(P) Overhead track systems to assist with lifting or transferring;

(Q) Specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the child;

(R) Modifications for the primary vehicle used by the child that are necessary to meet the unique needs of the child and ensure the health, welfare, and safety of the child (lift or interior alterations such as seats, head, and leg rests; and belts, special safety harnesses, or other unique modifications to keep the child safe in the vehicle); and

(S) Adaptations to control lights, heat, stove, etc.

(b) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not for the direct safety, remedial, or long term benefit to the child;

(B) Adaptations that add to the total square footage of the family home; and

(C) General repair or maintenance and upkeep required for the family home or motor vehicle, including repair of damage caused by the child.

(c) Environmental modifications are limited to \$5,000 per modification. A services coordinator may request approval for additional expenditures through the Department prior to expenditure. Approval is based on the child's service needs and goals and the Department's determination of appropriateness and cost-effectiveness.

(d) Environmental modifications must be tied to supporting activities of daily living, instrumental activities of daily living, and health-related tasks as identified in the Plan of Care.

(e) Modifications over \$500 must be completed by a state licensed contractor. Any modification requiring a permit must be inspected and be certified as in compliance with local codes by local inspectors and filed in provider file prior to payment. Environmental modifications must be made within the existing square footage of the family home, except for external ramps, and cannot add to the square footage of the building. Payment to the contractor is to be withheld until the work meets specifications.

(f) Environmental accessibility adaptations that are provided in a rental structure must be authorized in writing by the owner of the structure prior to initiation of the work. This does not preclude any reasonable accommodations required under the Americans with Disabilities Act.

(7) IN-HOME DAILY CARE. In-home daily care services include the purchase of direct provider support provided to a child in the family home or community by qualified individual providers and agencies. Provider assistance provided through in-home daily care must support the child to live as independently as appropriate for the child's age and must be based on the identified needs of the child, supporting the family in a primary

caregiving role. Primary caregivers are expected to be present or immediately available during the provision of in-home daily care.

(a) In-home daily care services provided by qualified providers or agencies include:

(A) Basic personal hygiene - Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care - Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;

(C) Mobility - Transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition - feeding and monitoring intake and output;

(E) Skin care - Dressing changes;

(F) Physical healthcare including delegated nursing tasks;

(G) Supervision - Providing an environment that is safe and meaningful for the child and interacting with the child to prevent danger to the child and others, and maintain skills and behaviors required to live in the home and community;

(H) Assisting the child with appropriate leisure activities to enhance development in the family home and community and provide training and support in personal environmental skills;

(I) Communication - Assisting the child in communicating, using any means used by the child;

(J) Neurological - Monitoring of seizures, administering medication, and observing status; and

(K) Accompanying the child and family to health related appointments.

(b) In-home daily care services must:

(A) Be previously authorized by the services coordinator before services begin;

(B) Be delivered through the most cost effective method as determined by the services coordinator; and

(C) Only be provided when the child is present to receive services.

(c) In-home daily care services exclude:

(A) Hours that supplant the natural supports and services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours to allow a primary caregiver to work or attend school;

(C) Support generally provided at the child's age by parents or other family members;

(D) Educational and supportive services provided by schools as part of a free and appropriate education for children and young adults under the Individuals with Disabilities Education Act;

(E) Services provided by the family; and

(F) Home schooling.

(d) In-home daily care services may not be provided on a 24-hour shift-staffing basis. The child's primary caregiver is expected to provide at least 40 hours of care each week and supervise the child each day with the exception of overnight respite. The 40 hours of care and supervision may not include hours when the child's primary caregiver is sleeping.

(8) RESPITE. Respite services are provided to a child on a periodic or intermittent basis furnished because of the temporary absence of, or need for relief of, the primary caregiver.

(a) Respite may include both day and overnight services that may be provided in:

(A) The family home;

(B) A licensed, certified, or otherwise regulated setting;

(C) A qualified provider's home. If overnight respite is provided in a qualified provider's home, the services coordinator and the child's parent must document that the home is a safe setting for the child; or

(D) A disability-related or therapeutic recreational camp.

(b) The services coordinator does not authorize respite services:

(A) To allow primary caregivers to attend school or work;

(B) That are ongoing and occur on more than a periodic schedule, such as eight hours a day, five days a week;

(C) On more than 14 consecutive overnight stays in a calendar month;

(D) For more than 10 days per individual plan year when provided at a specialized camp;

(E) For vacation travel and lodging expenses; or

(F) To pay for room and board if provided at a licensed site or specialized camp.

(9) SPECIALIZED EQUIPMENT AND SUPPLIES. Specialized equipment and supplies include the purchase of devices, aids, controls, supplies, or appliances that are necessary to enable a child to increase the child's

abilities to perform and support activities of daily living, or to perceive, control, or communicate with the environment in which the child lives.

(a) Electronic devices to secure assistance in an emergency in the community and other reminders such as medication minders and alert systems for ADL/IADL supports, or mobile electronic devices. Expenditures for electronic devices of more than \$500 in a plan year require Department approval.

(b) Assistive technology to provide additional security and replace the need for direct interventions to allow self direction of care and maximize independence. Examples include motion sound sensors, two-way communication systems, automatic faucets and soap dispensers, incontinent and fall sensors, or other electronic backup systems.

(A) Limit of \$5000 per year without Department approval.

(B) Any single device or assistance costing more than \$500 must be approved by the Department.

(c) Assistive devices. Examples include durable medical equipment, mechanical apparatus, electrical appliance or information technology device to assist and enhance an individual's independence in performing ADL/IADLs, not covered by other Medicaid programs. Limit of \$5000 per year without Department approval. Any single device or assistance costing more than \$500 must be approved by the department.

(d) The purchase of specialized equipment and supplies may include the cost of a professional consultation, if required, to assess, identify, adapt, or fit specialized equipment. The cost of professional consultation may be included in the purchase price of the equipment.

(e) To be authorized by the services coordinator, specialized equipment and supplies must be --

(A) In addition to any medical equipment and supplies furnished under the Oregon Health Plan and private insurance;

(B) Determined necessary to the daily functions of the child; and

(C) Directly related to a child's disability.

(f) Specialized equipment and supplies exclude:

(A) Items that are not necessary or of direct medical or remedial benefit to the child;

(B) Specialized equipment and supplies intended to supplant similar items furnished under the Oregon Health Plan or private insurance;

(C) Items available through family, community, or other governmental resources;

(D) Items that are considered unsafe for a child;

(E) Toys or outdoor play equipment; and

(F) Equipment and furnishings of general household use.

(g) Funding for specialized equipment with an expected life of more than one year is one time funding that is not continued in subsequent plan years. Specialized equipment may only be included in a child's annual Plan of Care when all other public and private resources for the equipment have been exhausted.

(h) The services coordinator must secure use of equipment or furnishings costing more than \$500 through a written agreement between the Department and the child's parent that specifies the time period the item is to be available to the child and the responsibilities of all parties if the item is lost, damaged, or sold within that time period. Any equipment or supplies purchased with CIIS funds that are not used according to the child's annual Plan of Care, or according to the written agreement between the Department and the child's parent, may be immediately recovered.

(10) CHORE SERVICES. Chore services may be provided only in situations where no one else in the household is capable of either performing or paying for the services and no other relative, caregiver, landlord, community, volunteer agency, or third-party payer is capable of or responsible for providing these services

(11) TRANSPORTATION. Non-medical transportation is provided in order to enable a child to gain access to community services, activities, and resources as specified in the child's Plan of Care. Non-medical transportation excludes:

(a) Transportation provided by family members;

(b) Transportation used for behavioral intervention or calming;

(c) Transportation normally provided by schools and by the primary caregiver for children of similar age without disabilities;

(d) Purchase of any family vehicle;

(e) Vehicle maintenance and repair;

(f) Reimbursement for out-of-state travel expenses;

(g) Ambulance services; or

(h) Transportation services that may be obtained through other means such as the Oregon Health Plan or other public or private resources available to the child.

(12) FAMILY TRAINING. Family training services include the purchase of training, coaching, counseling, and support that increase the abilities of a child's family to care for and maintain the child in the family home. Family training services include:

(a) Counseling services that assist the family with the stresses of having a child with an intellectual or developmental disability.

(A) To be authorized, the counseling services must:

(i) Be provided by licensed providers including but not limited to psychologists licensed under ORS 675.030, professionals licensed to practice medicine under ORS 677.100, social workers licensed under ORS 675.530, or counselors licensed under ORS 675.715;

(ii) Directly relate to the child's intellectual or developmental disability and the ability of the family to care for the child; and

(iii) Be short-term.

(B) Counseling services are excluded for:

(i) Therapy that could be obtained through the Oregon Health Plan or other payment mechanisms;

(ii) General marriage counseling;

(iii) Therapy to address the psychopathology of family members;

(iv) Counseling that addresses stressors not directly attributed to the child;

(v) Legal consultation;

(vi) Vocational training for family members; and

(vii) Training for families to carry out educational activities in lieu of school.

(b) Registration fees for organized conferences, workshops, and group trainings that offer information, education, training, and materials about the child's intellectual or developmental disability, medical, or health conditions.

(A) Conferences, workshops, or group trainings must be prior authorized by the services coordinator and include those that:

(i) Directly relate to the child's intellectual or developmental disability; and

(ii) Increase the knowledge and skills of the child's family to care for and maintain the child in the family home.

(B) Conference, workshop, or group training costs exclude:

(i) Registration fees in excess of \$500 per family for an individual event;

(ii) Travel, food, and lodging expenses;

(iii) Services otherwise provided under the Oregon Health Plan or available through other resources; or

(iv) Costs for individual family members who are employed to care for the child.

(13) SPECIALIZED DIETS. Specialized diets do not constitute a full nutritional regime.

(a) In order for a specialized diet to be authorized:

(A) The foods must be on the approved list developed by the Department;

(B) The specialized diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners;

(C) The specialized diet must be periodically monitored by a dietician or physician; and

(D) The specialized diet may not be reimbursed through the Oregon Health Plan or any other source of public and private funding.

(b) Restaurant and prepared foods, vitamins, and supplements are specifically excluded from a specialized diet.

(14) TRANSLATION. If the primary caregiver or the child's primary language is not English, translation service is provided to allow the child or the primary caregiver to communicate with providers of CIIS.

(915) All CIIS authorized by ~~SPD~~the Department must be included in a written Plan of Care in order to be eligible for payment. The Plan of Care must use the most cost effective services for safely and appropriately meeting ~~the~~a child's service needs.

(4016) Service budgets increase or decrease in direct relationship to the increasing or decreasing behavior criteria score.

(4117) If the primary caregiver's primary language is not English, cost of interpretation or translation services related to CIIS ~~shall~~are not ~~be~~ considered part of the child's service budget.

(4218) EXCEPTIONS. All exceptions must be authorized by the Department's CIIS manager. Exceptions are limited to 90 days unless re-authorized. Ninety-day exceptions ~~shall~~are only ~~be~~ authorized in the following circumstances:

(a) ~~The~~A child is at immediate risk of loss of family home without the expenditure;

(b) The expenditure provides supports for ~~the~~a child's emerging or changing care needs or behaviors;

(c) A significant medical condition or event occurs that prevents the primary caregiver from providing care or services as documented by a physician; or

(d) The services coordinator determines, with a behavior consultant, that ~~the~~a child needs two staff present at one time to ensure the safety of the child and others. Prior to approval, the services coordinator must determine that all caregivers, including the child's parents, have been trained in behavior management and that all other feasible recommendations from the behavior consultant and services coordinator have been implemented.

~~(3) CIIS may include a combination of the following waived and other Medicaid services based upon the needs of the child as determined by the services coordinator and as consistent with the child's Plan of Care:~~

- ~~(a) Waivered services;~~
- ~~(b) Behavior consultations;~~
- ~~(c) Environmental accessibility adaptations;~~
- ~~(d) Motor vehicle adaptations;~~
- ~~(e) Goods, services, and supplies; or~~
- ~~(f) Other Medicaid services including in-home daily care.~~

~~(4) BEHAVIOR CONSULTATION. Behavior consultation shall only be authorized to support a primary caregiver in their caregiving role. Behavior consultation shall only be authorized, as needed, to respond to specific problems identified by the primary caregiver or services coordinator. Behavior consultants must:~~

- ~~(a) Work with the parent to identify:
 - ~~(A) Areas of a child's family home life that are of most concern for the parent and child;~~
 - ~~(B) The formal or informal responses the family or provider has used in those areas; and~~
 - ~~(C) The unique characteristics of the family that could influence the responses that would work with the child.~~~~
- ~~(b) Assess the child. The assessment must include:
 - ~~(A) Specific identification of the behaviors or areas of concern;~~
 - ~~(B) Identification of the settings or events likely to be associated with, or to trigger, the behavior;~~
 - ~~(C) Identification of early warning signs of the behavior;~~
 - ~~(D) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:
 - ~~(i) An effort to communicate;~~
 - ~~(ii) The result of a medical condition;~~
 - ~~(iii) The result of an environmental cause; or~~
 - ~~(iv) The symptom of an emotional or psychiatric disorder.~~~~
 - ~~(E) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern; and~~
 - ~~(F) An assessment of current communication strategies.~~~~
- ~~(c) Develop a variety of positive strategies that assist the primary caregiver and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may~~

~~include changes in the physical and social environment, developing effective communication, and appropriate responses by a primary caregiver and provider to the early warning signs.~~

~~(A) Interventions must be done in accordance with positive behavioral theory and practice as defined in OAR 411-300-0110.~~

~~(B) The least intrusive intervention possible must be used.~~

~~(C) Abusive or demeaning interventions must never be used.~~

~~(D) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.~~

~~(d) Develop emergency and crisis procedures to be used to keep the child, primary caregiver, and provider safe. Physical restraint must only be utilized in accordance with OAR 411-300-0140(4).~~

~~(e) Develop a written Behavior Support Plan that includes the following:~~

~~(A) Use of clear, concrete language that is understandable to the primary caregiver and provider; and~~

~~(B) Describes the assessment, strategies, and procedures to be used.~~

~~(f) Teach the provider and primary caregiver the strategies and procedures to be used.~~

~~(g) Monitor and revise the Behavior Support Plan as needed.~~

~~(5) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.~~

~~(a) SPD shall authorize environmental accessibility adaptations when:~~

~~(A) Necessary to ensure the health, welfare, and safety of the child in the family home or to enable the child to function with greater independence in the family home.~~

~~(B) Provided in accordance with applicable state or local building codes by licensed contractors. Any modification that impedes egress shall be approved only if a risk assessment demonstrates no safer solution and a safety plan is signed by the parent.~~

~~(C) Determined to be the most cost effective solution.~~

~~(b) Environmental accessibility adaptations exclude:~~

~~(A) Adaptations or improvements to the family home that are of general utility and are not for direct safety, remedial, or long term benefit to the child.~~

~~(B) Adaptations that add to the total square footage of the family home.~~

~~(c) For environmental accessibility adaptations that singly or together exceed \$5,000, SPD may protect its interest for the entire amount of the adaptations through liens or other legally available means.~~

~~(d) Environmental accessibility adaptations that are provided in a rental structure must be authorized in writing by the owner of the structure prior to~~

~~initiation of the work. This does not preclude any reasonable accommodations required under the Americans with Disabilities Act.~~

~~(6) MOTOR VEHICLE ADAPATIONS.~~

~~(a) SPD shall only authorize motor vehicle adaptations for the primary vehicle used by the child. The motor vehicle adaptations must be cost effective and directly relate to the child's disability.~~

~~(b) Motor vehicle adaptations do not include repair of damage caused by the child, general repair, maintenance, or upkeep required by a motor vehicle.~~

~~(7) GOODS, SERVICES, AND SUPPLIES. Goods, services, and supplies may include any combination of the following:~~

~~(a) Homemaker. Homemaker services consist of general household activities to allow the primary caregiver time to care for the child.~~

~~(b) Respite. Respite services are authorized on a limited basis for relief of, or due to the temporary absence of, the primary caregiver. Respite services are not available to allow primary caregivers to attend school or work.~~

~~(A) When respite is provided through an overnight camp, respite shall be limited to 10 days per individual plan year.~~

~~(B) SPD does not pay for room and board expenses in any situation.~~

~~(c) Non-medical transportation. Non-medical transportation is provided in order to enable a child to gain access to community services, activities, and resources as specified in the Plan of Care. Non-medical transportation excludes:~~

~~(A) Transportation provided by family members;~~

~~(B) Transportation used for behavioral intervention or calming;~~

~~(C) Transportation normally provided by schools and by the primary caregiver for children of similar age without disabilities;~~

~~(D) Purchase of any family vehicle;~~

~~(E) Vehicle maintenance and repair;~~

~~(F) Reimbursement for out-of-state travel expenses;~~

~~(G) Ambulance services; or~~

~~(H) Transportation services that may be obtained through other means such as the State Medicaid Plan or other public or private resources available to the child.~~

~~(d) Specialized medical equipment and supplies. Specialized medical equipment and supplies includes but is not limited to communication devices, adaptive clothing, adaptive eating equipment, or adaptive sensory or habilitation devices or supplies. Specialized medical equipment and supplies funded by the Oregon Health Plan are excluded. Increased utility costs caused by the unique needs of the child and the disability may only~~

~~be approved as long as the parent continues to pay typical utility expenditures.~~

~~(e) Chore. Chore services are services needed to maintain the family home as a clean, sanitary, and safe environment. Chore services may be provided only in situations where no one else in the family home, or any other individual, is capable of performing or providing these services. Chore services include heavy household chores such as window washing or carpet cleaning.~~

~~(f) Family training. Family training services include services that increase the family's capacity to care for the child. Family training is only available to non-paid family members actively involved in the care of the child.~~

~~(A) Conference or workshop registrations.~~

~~(i) SPD shall authorize conference or workshop registrations that:~~

~~(I) Directly relate to the child's disability; and~~

~~(II) Increase the knowledge and skills of the primary caregiver.~~

~~(ii) Travel and lodging expenses are excluded.~~

~~(iii) Meals not included in the registration cost are excluded.~~

~~(B) Counseling services.~~

~~(i) To be authorized by SPD, the counseling services must:~~

~~(I) Be provided by licensed mental health providers;~~

~~(II) Directly relate to the child's disability, the ability of the parent to care for the child, and the related impact on the family or couple;~~

~~(III) Be short-term; and~~

~~(IV) Have treatment goals prior approved by the services coordinator.~~

~~(ii) Counseling services are excluded for:~~

~~(I) Therapy that could be obtained through the Oregon Health Plan or other payment mechanisms;~~

~~(II) General marriage counseling;~~

~~(III) Therapy to address parents or other family members psychopathology;~~
~~or~~

~~(IV) Counseling that addresses stressors not directly attributed to the child.~~

~~(g) Specialized consultation. Specialized consultation services are services provided by a physical therapist, occupational therapist, speech and language pathologist, or other professional. Specialized consultation services must have exhausted the limits identified under the Oregon Health Plan.~~

~~(h) Specialized diet. The maximum monthly purchase for specialized diet supplies may not exceed \$100 per month. Specialized diets do not constitute a full nutritional regime.~~

~~(A) In order to be authorized:~~

- ~~(i) The foods must be on the approved list developed by SPD;~~
- ~~(ii) The specialized diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners;~~
- ~~(iii) The specialized diet must be periodically monitored by a dietician or physician; and~~
- ~~(iv) The specialized diet cannot be reimbursed through the Oregon Health Plan or any other source of public and private funding.~~
- ~~(B) Restaurant and prepared foods, vitamins, and supplements are specifically excluded from a specialized diet.~~
- ~~(i) Translation. If the primary caregiver or the child's primary language is not English, translation service is provided to allow the child or the primary caregiver to communicate with providers of CHS.~~
- ~~(j) Other goods, services, and supplies. Other goods, services, and supplies are eligible for payment if they are:~~
 - ~~(A) Directly related to the child's disability;~~
 - ~~(B) Included in an approved Plan of Care;~~
 - ~~(C) Needed to maintain the health and safety of the child;~~
 - ~~(D) Cost effective;~~
 - ~~(E) Not typical for a parent to provide a child of the same age; and~~
 - ~~(F) Required to help the parent to continue to meet the needs of caring for the child.~~
- ~~(k) Goods, services, and supplies paid for by SPD must be documented by receipts or invoices. The receipts or invoices must be maintained by SPD for five years. If no receipt or invoice is available, the parent must submit to SPD in writing, a statement that the parent received the goods, services, or supplies, and the date on which they were received.~~
- ~~(l) SPD may protect its interest through any legally allowable means for any good, service, or supply as determined by SPD.~~
- ~~(m) SPD may expend its funds through contract, purchase order, use of credit card, payment directly to the vendor, or any other legal payment mechanism.~~
- ~~(8) IN-HOME DAILY CARE. In-home daily care services may include a combination of assistance with ADLs, nursing services, or other supportive services, as determined by the services coordinator, consistent with the child's Plan of Care. In-home daily care service hours are only authorized to support a parent in their primary caregiving role.~~
 - ~~(a) In-home daily care services include:~~
 - ~~(A) Basic personal hygiene - Assistance with bathing and grooming;~~
 - ~~(B) Toileting, bowel, and bladder care - Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;~~

- ~~(C) Mobility – Transfers, comfort, positioning, and assistance with range of motion exercises;~~
- ~~(D) Nutrition – Special diets, monitoring intake and output, and adaptive feeding;~~
- ~~(E) Skin care – Dressing changes;~~
- ~~(F) Supervision – Providing an environment that is safe and meaningful for the child, interacting with the child to prevent danger to the child and others, and assisting the child with appropriate leisure activities;~~
- ~~(G) Communication – Assisting the child in communicating using any means used by the child;~~
- ~~(H) Neurological – Monitoring of seizures, administering medication, and observing status; and~~
- ~~(I) Other personal care tasks or services.~~
- ~~(b) When any of the services listed in section (8)(a) of this rule are essential to the health and welfare of the child, the provider may provide supportive services that also include:~~
 - ~~(A) Housekeeping tasks related to maintaining a healthy and safe environment for the child;~~
 - ~~(B) Arranging for necessary medical equipment, supplies, and medications;~~
 - ~~(C) Arranging for necessary medical appointments;~~
 - ~~(D) Accompanying the child to appointments, outings, and community-based activities; or~~
 - ~~(E) Participating in activities with the child to enhance development or learning.~~
- ~~(c) In-home daily care service hours may be spread throughout the time authorized in the billing form or used in large blocks of time as the parent determines.~~
- ~~(d) In-home daily care services must:~~
 - ~~(A) Be previously authorized by SPD before services begin;~~
 - ~~(B) Be based on the assessed service needs of the child consistent with, and documented in, the Plan of Care as determined by the services coordinator;~~
 - ~~(C) Be delivered through the most cost effective method as determined by the services coordinator; and~~
 - ~~(D) Include a physician's order when nursing services are to be provided. SPD determines whether payment of nursing services, or the hours of services as ordered by the physician, shall be authorized for payment according to these rules.~~
- ~~(e) SPD does not authorize in-home daily care service hours:~~

~~(A) That supplant the services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives.~~

~~(B) Solely to allow a primary caregiver to work or attend school.~~

~~(C) For any services performed without the eligible child present unless specifically detailed in the Plan of Care.~~

~~(D) For any services provided not specified on a job description signed by both parent and provider.~~

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, ORS 427.007, and ORS 430.215